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Mongolia Report

(FOUO 1/82)



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WATER LEGISLATION RELATED TO OTHER DEVELOPMENT ASPECTS OF MPR

Moscow VODNYYE RESURSY in Russian No 2, 1982 pp 137-143

[Article by D. Dariymaa, Institute of Philosophy, Sociology and Law of the MPR Academy of Sciences: "MPR Water Legislation"]

[Text] The molding of MPR water legislation is governed by the unique historical conditions of the development of the country. Mongolia had to traverse the difficult path from feudalism to socialism, bypassing the capitalist stage of development. The means of production of these two socioeconomic formations differ radically from each other, therefore the process of production influences the environment differently. The lack of factories and plants did not raise for the developing state questions of the pollution of bodies of water; the need to adopt any legislative measures on their protection practically did not arise.

Another characteristic factor, which influences the development of the water legislation of Mongolia, is its intracontinental location. The hydrographic features of the country also play an important role. A portion of the watershed of the Arctic and Pacific Oceans passes through the MPR. An area of internal-drainage basins and lakes of Central Asia, which takes up approximately two-thirds of the area of the country, is located to the south of the watershed. The basin of the Selenge River, which is located to the north of the watershed, has the most developed, quite dense and branched hydrographic network in the MPR. The Shishhid Gol (one of the headwaters of the Yenisey River), as well as the headwaters of the Korumdy (Dzelter Gol) River--a tributary of the Chernyy Irtys River--belong to the basin of the Arctic Ocean.

The territory of the MPR, which belongs to the basin of the Pacific Ocean and Central Asia, is comparatively poor in rivers and lakes. The Onon, Ikh, Herulen and Halhin Rivers, the lower courses of which, except for the last one, are located outside Mongolia, belong to the basin of the Pacific Ocean within the MPR. The Halhin Gol flows with one branch into the Buyr Nuur on the territory of the MPR and with the other into the Wu-er-shun Ho in China. The Hobd and Bugan (Urungu) from the Altay Mountains and the Dzabhan, Tes, Baydrag and Tuyn Gol from the Hangayn Nuruu, as well as other, small rivers carry their waters into the internal-drainage basins of Central Asia.

The following features are characteristic of the hydrologic cycle of the rivers of Mongolia: 1) for nearly half of the year they are ice-bound and often freeze to

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the bottom, water on top of ice is typical of mountain rivers; 2) minor flooding occurs in the spring, while the main, but intermittent flooding occurs in the summer, when in 1 to 2 days the water level rises sharply as a result of a downpour or shower (given the high speed of the current as a result of the sharp gradient of the mountain rivers of Mongolia these floods are at times of a catastrophic nature); 3) the considerable fluctuation of the speeds of the current and the water content, which stems from the intermittent nature of summer flooding; 4) the mountain type of alimentation of nearly all the rivers of Mongolia with developed, mainly erosive action (accumulations of river sediments in large amounts are observed only in places).

The very geographic location of Mongolia dictates the need for cooperation in the area of water resources and their protection with neighboring states, and especially the Soviet Union. As an intracontinental country, which is far removed from the open sea, Mongolia, which also belongs to the states of the basin of the Pacific Ocean, is interested in international cooperation with the countries of the basin of the Pacific Ocean in the area of the use of the resources of the world ocean.

The process of shaping the water legislation of the MPR is closely connected with the progressive socioeconomic development of the country. During the initial period of the development of Mongolian water legislation the main attention was devoted to questions of the efficient use of water resources for the needs of the national economy. Thus, in a decree of the Mongolian Council of Ministers (March 1927) the question was raised of repairing old wells and building new wells equipped with pumps. The new equipment was delivered from the Soviet Union, whose specialists gave much assistance in the mastering of the imported equipment and the development of national personnel.

The basic direction in the area of water legislation of those times--the development and improvement of the use of the system of wells--was also developed later. In 1929 the MPR Council of Ministers adopted a decree on the confirmation of the ukaze on water sources, their use and protection and passed a law on the construction of a system of wells everywhere for the needs of the national economy of the country.

In conformity with the agreement reached in 1936 between the MPR and the USSR on the sailing of merchant vessels of the Selenge River Steamship Company of the USSR on the Selenge and Orhon Rivers within the territory of Mongolia the Soviet side assumed an obligation on the appropriate training of Mongolian national personnel. In 1946 the MPR Council of Ministers commissioned the MPR Ministry of Animal Husbandry starting in the fall of 1947 to form at the veterinary technical school a faculty for hydraulic engineering problems, which made it possible to lay the foundation for the training of water resource specialists.

The skills of Mongolian personnel were improved in the process of Soviet-Mongolian cooperation within a joint scientific research expedition, which was set up in 1958 in conformity with a decree of the MPR Council of Ministers, for the drafting of a plan of the water management of Mongolia.

In the 1960's the Administration for the Management of Water Resources with the subordination to it of specialized subdivisions (offices) in the aymags was organized in the Ministry of Agriculture in conformity with a decree of the MPR Council

of Ministers, which was adopted in 1961. In some aymags (for example, Dzabhan and Bayanhongor) construction and installation offices for the needs of water management were established by a decree of the MPR Council of Ministers (March 1965). The Mongolian Government advanced for specialists in the field of water resources specific scientific and technical tasks, the accomplishment of which was of great national economic importance. Thus, the drafting of the Plan of the Efficient Use and Protection of the Water Resources of the Selenge, Orhon, Tuul, Herulen, Dzabhan, Yoroo, Egiyn Gol and other rivers to 1980 was called for by a Decree of the MPR Council of Ministers, which was adopted in 1966.

As a result of the strengthening of the international cooperation of the MPR in several areas of the national economy with CEMA member countries a number of legislative steps were also taken in the area of the water resources of the country. For example, in 1964 it was specified by a decree of the MPR Council of Ministers that the elaboration of the water balance of Mongolia should be carried out on the basis of the method of compiling the water balance, which is used by the CEMA member countries, with allowance made for the 5-year and long-range plan of the development of the MPR national economy.

A law on the use of MPR waters, which served as the basis for the solution of the scientific and technical problems connected with the development of the water resources of the country, was confirmed in March 1965 by the Decree of the MPR People's Great Hural.

The water legislation of this period called for the creation of the material and technical base of water management of the MPR. In conformity with a number of decrees of the MPR Council of Ministers of 1971 mobile mechanized detachments were set up for work in Bayanhongor, Gobi-Altay and Dornogobi Aymags, the MPR Planning and Surveying Institute of Water Resources and a technical school for water management were organized, work was begun on the construction of a number of water management systems. However, the water legislation existing at that time no longer conformed to the scale of the set tasks, in connection with which there arose the need for the drafting of a uniform Water Law--the legal basis for the further improvement of all the water resources of Mongolia. The MPR Water Law, which went into effect on 1 August 1974, was approved by the Decree of the MPR People's Great Hural of 1 July 1974.

The prevailing MPR Water Law includes six sections: the general provisions; the use of water and water management structures; the protection of water resources and water management structures; the control of the harmful effect of water; state registration, the planning of the use of water and water resources valuation; the responsibility for the violation of water legislation. In all there are 34 articles in the law.

In conformity with the Water Law large and small rivers, springs, lakes, ponds and other surface water bodies, as well as ground waters, irrigation systems, flood protection structures, reservoirs, hydroelectric power stations, water supply systems, driven and dug wells, capped springs, as well as other water management structures and their equipment are state property of Mongolia, which belongs to all the Mongolian people. Wells, irrigation systems, cisterns and capped springs with their equipment, which were built by the forces of cooperative organizations, are the property of the latter.

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The indicated provisions are in keeping with the MPR Constitution, in accordance with which all the water resources of the country are state property, that is, national property. Water resources, consequently, are granted to interested people and sectors of the economy only for temporary use. All the waters in the MPR constitute the united state water fund, which includes lakes, rivers, springs and other surface waters, as well as the waters of canals, ponds and reservoirs, ground water resources and glaciers.

The basic tasks of MPR water legislation consist in the regulation of the relations between water users for the purposes of ensuring the efficient use of waters for the needs of the population, animal husbandry and other sectors of the national economy, in the protection of waters against pollution, contamination and depletion, in the prevention and elimination of the harmful effect of waters on the environment, as well as in the protection of the rights and the observance of the duties of all water users and the strengthening of the legality of the use of water.

MPR citizens, who wish to build a well or an irrigation canal on a parcel of land for personal use, should obtain a permit for the construction and operation of the structure and register it at the water management organizations of the MPR. Joint stock companies, foreign organizations and persons without citizenship, who wish to build a well on a private plot for the irrigation of a fruit orchard or a garden, also should obtain a permit for the construction of the structure and register it at the water management organizations of Mongolia. Embassies, governments and diplomatic workers of foreign states, who are in the MPR, carry out all the operations on the clearance of the construction and the registration of the built water management structures through the MPR Ministry of Foreign Affairs. Thus, all questions of water use are regulated on a legal basis and are concentrated in the water management organizations of Mongolia.

The management and organization of the work in the area of the use and protection of waters are carried out by the MPR Council of Ministers, the MPR Ministry of Irrigation and the executive committees of the aymag, city, somon, regional and horon assemblies of people's deputies.

Within the competence of the MPR Council of Ministers there are the management of the united state water fund; the establishment of the main regulations in the area of the improvement of the use and protection of waters, as well as the prevention and elimination of the harmful effect of waters, the establishment of state standards for water use, water quality and the methods of its evaluation; the establishment of a unified system of the state recording of water use and the state water resources valuation; the approval of the master plans of the comprehensive use and protection of waters, water resource balances, as well as designs of water management structures which are of state importance; the establishment of the procedure of the implementation of state monitoring of the use and protection of waters.

On the basis of the MPR Water Law the supervision of water management operations is included in the function of the MPR Ministry of Irrigation.

The executive committees of the aymag, city, somon, regional and horon assemblies of people's deputies on the territory subordinate to them carry out the supervision of the work on the supply of water to the population, animal husbandry, farming and industrial enterprises and monitor the organizations which are in charge of the protection and use of water resources and water management structures.

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State monitoring of the use and protection of waters is carried out by the MPR Council of Ministers, the Ministry of Irrigation, the State Health Inspectorate, the executive committees of the aymag, city, somon, regional and horon assemblies of people's deputies, as well as specially authorized people. The state inspectors for the use and protection of waters are appointed by the MPR Ministry of Irrigation and carry out state monitoring of the use and protection of waters.

The MPR Water Law regulates the conditions of the location, designing, construction, renovation and placement into operation of enterprises and structures, which influence the condition of water resources; the procedure of the performance of work at water bodies and in the coastal zones; the use of water bodies and water management structures for the needs of agriculture, industry and other purposes.

The MPR Water Law prohibits the placement into operation of structures which do not meet the following requirements: a) enterprises, municipal projects, shops and units, which envisage the discharge of waste water, should be equipped with facilities for the purification and discharge of this water; b) driven and dug wells and capped springs should be equipped with water-regulating devices, health protection zones should be established for them in conformity with the procedure stipulated by legislation; c) irrigation systems, canals, ponds and man-made lakes should envisage installations which eliminate the flooding, waterlogging and salinization of lands and the erosion of soils; d) hydraulic structures in the channels of streams should be accepted for operation only in the case of the readiness of the facilities for the passing of flood waters and of the fish protection structures in conformity with the planned designs.

The Water Law charges enterprises, organizations and institutions, the production processes of which affect the state of waters (contamination and depletion), with the meeting of the following requirements:

the designing and location of new enterprises and structures are carried out only with the consent of representatives of water management and health organs;

the placement into operation of new and thoroughly renovated enterprises and structures is carried out only with the official permission of water management and health organs.

Enterprises and citizens can perform work which has any influence on the regimen of a stream and the quality of surface waters only after obtaining permission from the appropriate organs. The enterprises using water for the needs of industry, agriculture, transportation, power engineering, fishing and other purposes, in conformity with the Water Law are obligated: a) to maintain the appropriate water level at the dams, in the reservoirs of hydroelectric power stations and other watercourses; b) to ensure the possibility of the free passage of ships, floats and so forth on navigable rivers. After completing the work on timber floating the organizations transporting the timber are obligated to clear the scraps of wood and other objects from the channel of rivers; c) for the purpose of preserving the fish stocks to ensure the free passage of fish through the channels of rivers, without allowing them to get into the headworks of irrigation systems (special structures should be built for letting fish pass).

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The use of rivers, lakes and ground sources for the discharge into them of industrial waste water and municipal and household sewage is permitted only by the appropriate water management organs, the State Health and Veterinary Inspectorate. All enterprises, whose activity adversely affects the condition of water resources, upon the approval of the executive committees of the aymag and city assemblies of people's deputies, water management organs, the State Health Inspectorate and other interested organizations implement the appropriate measures which are aimed at the prevention of the pollution and depletion of water resources. The organizations carrying out the floating of timber, rafts and other freight take every step to prevent damage of the shores and channels of rivers, as well as the structures built on these rivers.

State recording of the use of water in conformity with the established procedure is carried out at enterprises and organizations which use water on the territory of the MPR.

Long-range planning of the use of water resources for the purpose of optimum distribution among water users with allowance made for the priority meeting of the drinking and household needs of the population is carried out on the basis of the state recording of the use of water, the water resources valuation, the water resource balances, as well as the master plans of the complete use and protection of natural waters.

It is stipulated by Article 11 of the MPR Water Law that the united water fund of the MPR is made available for the use of the national economy first of all for the complete meeting of the drinking and household needs of the population and the needs of animal husbandry. Permission to use water sources for the drinking and household needs of the population is granted only after making chemical and bacteriological analyses of the water of these sources. At the same time constant monitoring of the quality of the water being used is carried out by the analysis of samples taken on strictly set dates.

The Water Law provides for the protection of the natural waters of the country against any interference which is capable of doing harm to their quality, decreasing the capacity for self-purification, altering ecological conditions and leading to the depletion of their reserves and the undesirable disturbance of the hydrogeological and hydrological conditions.

MPR water legislation prohibits the discharge into lakes, rivers and other surface sources, as well as onto the surfaces of glaciers of industrial and household waste, timber, petroleum and chemical products, fertilizers and toxic chemicals. The discharge of sewage into water bodies and onto the surface of the land without preliminary treatment is prohibited.

State enterprises receive permission for the discharge of waste water after its treatment from the State Service for the Use and Protection of Waters, the State Health and Epidemiological Inspectorate and the State Veterinary Administration, while enterprises and municipal services, which have been built by the forces of aymag and city organizations, receive it from the city administrations and departments of water resources, the health inspectorate and the veterinary administrations.

The MPR State Service for the Use and Protection of Waters jointly with the appropriate organizations specifies the sites of the discharge of treated sewage, makes a laboratory check of the quality of the sewage, carries out the monitoring of the operation of treatment plants, as well as checks and directs the work of the laboratories conducting the analysis of the sewage, keeps track of the use, protection and pollution of waters. In the case of the violation of the design parameters of water management construction, water supply systems and water treatment plants, which has an adverse effect on water quality, the service requires that the work be brought up to the design decisions. If necessary, with the permission of the appropriate organizations, it enlists specialists in the monitoring and checking operations. In the case of serious violations of the water legislation by any enterprises after a preliminary report to the superior organizations the indicated service independently or jointly with the health inspectorate has the right to halt the activity of these enterprises temporarily, until steps are taken to remedy the indicated violations.

Water use carried out at the border water sources of the MPR is regulated by international agreements. If water use on the Mongolian territorial of border waters is not regulated by international agreements with the participation of the MPR, it is carried out in conformity with MPR legislation.

In 1974 the MPR Council of Ministers approved instructions on the enforcement of the Water Law, which consist of 39 articles and have the following structure: the general provisions, the use and protection of waters and water management projects, the control of the harmful influence of waters, the registration of the use of waters, the responsibility for the violation of water legislation. The instructions set as their goal the concrete expression of the steps on the enforcement of the MPR Water Law and are an integral part of it.

On 1 November 1974 the MPR Council of Ministers approved the statute on the MPR State Service for the Use and Protection of Waters, which includes the following sections: the general provisions; the rights of the MPR State Service for the Use and Protection of Waters and its duties. This service supervises the work on the assurance of the efficient use of water resources, the protection of water against pollution and depletion, the control of the harmful influence of waters, as well as monitors the carrying out of MPR water legislation. At the local level the aymag and city departments and administrations of water management implement the decisions of the State Service. Trade unions, youth organizations, conservation organizations, scientific research institutes and all MPR citizens are taking an active part in the implementation of all the measures on the efficient use and protection of water resources.

Mongolian water legislation is constantly being improved and supplemented by new regulations. For example, the conducting of systematic studies in the basin of the Selenge and the organization of laboratories for conducting analyses for the purpose of establishing the extent of water pollution are stipulated by the decree of the MPR Council of Ministers of 11 October 1974.

Steps on the steadfast and absolute implementation of the water legislation of Mongolia are specified in the decree of the MPR Council of Ministers of 4 July 1975. In the decree of 10 June 1976 the MPR Council of Ministers charged the MPR Ministry of Justice to draw up a statute on the criminal liability for serious violations of

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the water legislation of the country. In this decree it is indicated that the protection and efficient use of water resources are a matter of all state, cooperative and other organizations and all the working people of Mongolia and that it is necessary to conduct mass explanatory work among the entire population. The allocation of the necessary assets for the implementation of the measures indicated in water legislation is discussed in this decree. Specific duties on the protection of the water resources of the country are assigned to the State Committee for Building Architecture and Technical Control, the Ministry of Agriculture and other ministries.

The work on strengthening the material and technical base of water management of the country is being continued. Thus, the building of an irrigation system at the "Future" Cooperative in Bayan-agt Somon of Bulgan Aymag is called for by the decree of the MPR Council of Ministers of 6 December 1975.

The administrative and organizational system of the management of water resources is being continuously improved. In particular, the Administration for the Management of Water Resources with the corresponding powers, rights and duties was organized on the basis of the decree of the MPR Council of Ministers of 5 May 1978.

Mongolia is carrying out international cooperation with the countries of the socialist community. In 1974 an agreement was reached between the governments of the MPR and the USSR on the efficient use and protection of the waters of the basin of the Selenge which runs through the territory of both Mongolia and the Soviet Union. This agreement provides for the cooperation of the two countries in the protection of the waters of the river against pollution, contamination and depletion, as well as the backing of measures on the prevention of the harmful effect of waters in the basin of the Selenge.

The MPR and the USSR are cooperating in the implementation of hydrometeorological and other measurements and observations and are sharing the results of studies conducted during different seasons of the year. These data are the basis for measures which are aimed at the solution of such important problems as the regulation of flood and low waters, the passage of ice; the use of structures and water facilities, which is connected with the efficient use of the waters of the river basin, as well as the keeping of them in the proper technical condition; the implementation of measures on the prevention of the water erosion of soils in the Selenge basin. Both parties inform each other in good time about ice conditions, rises of the water in the Selenge basin above the desired line and damage to water management structures. They are taking coordinated actions which are aimed at the elimination or the reduction of the danger in connection with flooding, the ice flow and other natural phenomena. Both parties are making joint control measurements for the purpose of evaluating the quality of the river water at sites agreed on in advance, as well as are elaborating uniform criteria and standards of the quality of river waters.

Within CEMA Mongolia is taking part in the fulfillment of three themes which are envisaged by a number of scientific and technical agreements. Among them are "The Elaboration and Standardization of New Special Methods of Studying Water Quality," "The Elaboration of Methods of Evaluating the Influence of the Chemicalization of Agriculture on the Quality of Surface and Ground Waters and Measures on the Prevention of Water Pollution" and "The Elaboration of a Scientific and Technical Forecast on the Protection of Water Resources." The research being conducted by

Mongolian scientists attests to the increased scientific and technical potential of Mongolia in the area of water management. The shaping and development of Mongolian water legislation, which was previously unknown in the history of the country, is clear evidence of the correctness of the policy being pursued by the party and the government, which, relying on the aid and assistance of the Soviet Union and the other socialist countries, were able in the shortest possible time to eliminate the scientific and technical backwardness in the country.

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